

Internal Revenue Service

Department of the Treasury

Regional
Commissioner

Southwest Region

Address any reply to Appeals Office
Room 12B25, 1100 Commerce St.,
Dallas, Texas 75202

Person to Contact:

Telephone Number:

Refer Reply to:

Date: MAR 3 1992

CERTIFIED MAIL

Dear Sir or Madam:

This is a final adverse determination with respect to your exempt status under section 501(c)(3) of the Internal Revenue Code.

The adverse determination was made because you are not operated exclusively in furtherance of one or more of the exempt purposes described in I.R.C. section 501(c)(3) and the regulations promulgated thereunder. Further, your activities are not exclusively in furtherance of any exempt purpose described in I.R.C. section 501(c)(3) and the regulations promulgated thereunder. Additionally, the documents submitted by or on behalf of your organization indicates that private interests rather than the general public is being served and there is inurement of benefits to your membership.

Contributions made to your organization are not deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax returns with your Key District Director for exempt organization matters for taxable years for which the filing date of the appropriate return has passed. These returns should be filed within 30 days of the date of this letter, unless a request for extension of time is granted. Please send them to the attention of the EP/EO Division, attach a copy of this letter, and address any requests for time extensions to the EP/EO Division. Processing of an income tax return and assessing any taxes due will not be delayed because a petition for a declaratory judgment has been filed under section 7428 of the Internal Revenue Code.

We will notify the appropriate state officials, as required by section 6104(c) of the Code, that based on the information we have available, we are unable to recognize you as an organization described in section 501(c)(3) of the Internal Revenue Code for the period mentioned.

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If you decide to contest this determination in court, a petition for a declaratory judgment proceeding in the United States Tax Court, the United States Court of Claims, or the United States District Court for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the Clerk of the appropriate court for rules for filing petitions for declaratory judgment. For more information, please see the declaratory judgment section of the enclosed Publication 892.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Thank you for your cooperation.

Sincerely,



Associate Chief, Appeals

Enclosure:
Publication 892

cc:



[REDACTED]

JUL 9 1981

Gentlemen:

Your application for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code has been considered.

The information submitted discloses that you (the Organization) were formed [REDACTED] for the purpose of holding four to six programs annually with various non-profit arts groups in the [REDACTED] area. Representatives of the arts groups discuss their group's origin, development and operations and described their programs. If the arts group is a performing arts organization, a program is held for the Organization's members. After the program, members of the cast discuss the particular program performed as well as their group's other programs with members of the Organization. The arts group is given the names and addresses of all of the Organization's members who attended the program. Food is sometimes served at the programs.

Your Articles of Incorporation states that your purposes are "(1) to conduct and carry on the work of the corporation not for profit but exclusively for charitable, social, and educational purposes." These Articles were amended to delete the word "social" and substitute the word "cultural".

In addition, the Organization solicits volunteers to help certain performing arts groups. Generally, the volunteers, responding to the Organization's solicitations serve as organizers, administrators, fund raising assistants and labors to the arts group.

The Organization attempts to generate its membership through certain diversity and participation in the [REDACTED] area.

Membership in the Organization is limited to members and their guests, and there are no restrictions on membership and members have unlimited privileges.

Copies of literature submitted to your members indicate that "members of alumni clubs from various colleges. . . have joined together in the [REDACTED] [REDACTED] for a series of private performances.."; "By combining, we can enjoy programs that no individual club could sponsor"; "We have private performances by various performing groups from around the city"; For \$ [REDACTED] per [REDACTED] member (each dues payer may bring one guest for \$ [REDACTED]; additional non-member guests may pay \$ [REDACTED] each) you will see a terrific, one-of-a-kind program and feast on a huge buffet. . . and in additional publications, the costs of members and guests varies. "most of these programs could not be offered to smaller alumni groups individually but could be made available to a larger, combined group".

In addition, in your newsletter to members, you state that "Museum of Fire Arts President [REDACTED] has agreed to host the performance and a cocktail buffet at his home"; "Invitations for [REDACTED] programs (Fun Run and Picnic), will be sent only to those who complete and return the attached form and \$ [REDACTED] to cover printing and postage"; "More than [REDACTED] people gathered at [REDACTED] for a cocktail buffet, etc."; "In response to numerous requests, we may have a cocktail party during [REDACTED] at a [REDACTED] member's home".

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(3)Corporations, *** fund, or foundation, organized and operated exclusively for religious, charitable, scientific, *** literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involved the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office."

Section 1.501(c)(3)-1 of the regulations provides, in part, as follows:

(1)(1)In order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt."

Section 501(c)(3) of the Code provides exemption for:

"Corporations...organized and operated exclusively for religious, charitable,...or educational purposes,...no part of the net earnings of which inures to the benefit of any private shareholder or individual..."

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that all the organizations there described must serve a public rather than a private interest.

Revenue Ruling 64-175, 1964-1 (part 1) Cumulative Bulletin 185, recognizes exemption to organizations organized exclusively for charitable, scientific, literary, or educational purposes and more specifically to stimulate, promote, and develop the interest of the American Public in the dramatic arts.

Revenue Ruling 73-45, 1973-1 Cumulative Bulletin 220, recognizes exemption under section 501(c)(3) to organizations created to foster the development in a community of an appreciation for drama and musical arts by sponsoring professional presentations.

Although your organization may be conducting artistic programs, we have concluded that you do not qualify for recognition of exemption from Federal income tax under section 501(c)(3) of the Code because you are engaging to a more than insubstantial degree in activities that are serving the private benefit and enjoyment of your members, and not that of educating the general public. There is no indication that your performances are announced for the attendance of the general public. Your programs, held in member's homes and restaurants with cocktail parties, picnics, etc., indicate a substantial social activity among members.

Article IV(1) of your Amendment to Articles of Incorporation, states "The purpose of or purposes for which the corporation is organized are: (1) to conduct and carry on the work of the corporation not for profit but exclusively for charitable, cultural, and educational purposes." Since "cultural" is not an allowable purpose under section 501(c)(3) of the Code, you do not meet the organization test.

Accordingly, it is held that you are not entitled to exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code. And you are required to file income tax returns on Form 1120.

It follows, therefore, that contributions to you are not deductible by donors under section 170 of the Code.

[REDACTED]

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 6104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

Sincerely,

[REDACTED]
District Director

Enclosures:
Publication 892
Form 6018 (2)
Pre-addressed envelope

cc: [REDACTED]